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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,640	02/20/2004	Raymond P. Silkaitis	7135USO3	7339
41155 7590 07/09/2008 BRIAN R. WOODWORTH 275 N. FIELD DRIVE DEPT. NLEG BLDG H-1 LAKE FOREST, IL 60045-2579				
EXAMINER SOREY, ROBERT A				
ART UNIT		PAPER NUMBER		
3626				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/783,640

**Applicant(s)**

SILKAITIS ET AL.

**Examiner**

ROBERT SOREY

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 08/16/2005

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-6** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent 7,154,397 to Zerhusen et al.

3. As per claim 1, Zerhusen et al. teaches a method for a caregiver to validate the right patient with visual confirmation between the patient and a display of a device in a medical management system (Fig. 3B, ele. 80)(see: Zerhusen et al., column 15, lines 1-3, is met by "[a]n image or photo... of the patient is also illustratively displayed to confirm that the patient is the correct patient"), comprising:

--*storing a digital photo of a patient* (see: Zerhusen et al., column 1, lines 55-65, is met by "[p]atient data is stored in a memory of the point-of-care computer or in a main server");

--*transmitting the digital photo to the device* (Fig. 1, ele. 34; Fig. 2, ele. 34; and Fig. 129)(see: Zerhusen et al., column 1, lines 55-65, is met by "[a]ccess to all patient information is available to...any computer connected to the point-of-care computer

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through a communication network"; column 6, lines 36-41, is met by "signals can be transmitted between the network...and computer"; and column 27, lines 17-57); and

*--placing the digital photo of the patient on the display of the device* (see: Zerhusen et al., column 1, lines 55-65, is met by "[a]n image or photo...of the patient is also illustratively displayed").

4. As per claim 2, Zerhusen et al. teaches the invention as claimed, see discussion of claim 1, and further teaches:

*--transmitting the digital photo to the device when a medication order is requested for the patient* (Fig. 126, especially ele. 1524; and Fig. 128, ele. 1548 and 1550)(see: Zerhusen et al., column 25 line 37 through column 26, line 39, is met by the message to the nurse indicating a medication delivery on his or her do-to list and the step of identifying the correct patient).

5. As per claim 3, Zerhusen et al. teaches the invention as claimed, see discussion of claim 1, and further teaches:

*--transmitting the digital photo to the device when the device has been associated with the patient by the medical management system* (Fig. 128, ele. 1548 and 1550)(see: Zerhusen et al., column 2, lines 6-14, is met by identification signals being sent to and used by the medical management system devices to associate people and things with the system; and column 26, lines 23-39, is met by displaying "an image of the patient along with a display of the patient's name for viewing by the nurse").

6. As per claim 4, Zerhusen et al. teaches the invention as claimed, see discussion of claim 1, and further teaches:

*--prompting the caregiver with the display to confirm that the patient matches the digital photo on the display* (Fig. 128, ele. 1548, 1550, and 1552)(see: Zerhusen et al., column 14, line 56 through column 15, line 3; and column 26, lines 23-39, is met by "the nurse can verify that the patient being attended to is in fact the patient maintained in the hospital main database").

7. As per claim 5, Zerhusen et al. teaches the invention as claimed, see discussion of claim 1, and further teaches:

*--sending a confirmation that the patient matches the digital photo to a medication management unit* (Fig. 128, ele. 1548 and 1550)(see: Zerhusen et al., column 14, line 56 through column 15, line 3; and column 26, lines 23-39, is met by "[i]f the correct patient is identified...then the nurse identification information is entered") as *a right patient match in a five rights check*.

8. As per claim 6, Zerhusen et al. teaches a medication management system for a caregiver to validate the right patient with visual confirmation between the patient and a display of a device in a medical management system (Fig. 3B, ele. 80)(see: Zerhusen et al., column 15, lines 1-3, is met by "[a]n image or photo... of the patient is also illustratively displayed to confirm that the patient is the correct patient"), comprising:

*--a medication management unit having a processing unit and a storage medium coupled to the processing unit* (Fig. 1 and Fig. 2)(see: Zerhusen et al., column 5, lines 26-35), the storage medium containing programming code executed by the processing unit to (see: Zerhusen et al., at least column 5, lines 57-62, is met by "software" throughout):

--store a digital photo of a patient (see: Zerhusen et al., column 1, lines 55-65, is met by "[p]atient data is stored in a memory of the point-of-care computer or in a main server"), and transmit the digital photo to the medical device (Fig. 1, ele. 34; Fig. 2, ele. 34; and Fig. 129)(see: Zerhusen et al., column 1, lines 55-65, is met by "[a]ccess to all patient information is available to...any computer connected to the point-of-care computer through a communication network"; column 6, lines 36-41, is met by "signals can be transmitted between the network...and computer"; and column 27, lines 17-57);  
and

--a device in electronic communication with the medication management unit, having a processor and a memory coupled to the processor, the memory containing programming code executed by the processor to place the digital photo of the patient on the display of the device (Fig. 42, ele. 624)(see: Zerhusen et al., column 1, lines 55-65, is met by "[a]n image or photo...of the patient is also illustratively displayed").

### **Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT SOREY whose telephone number is (571)270-3606. The examiner can normally be reached on Monday through Friday, 8:30AM to 5:00PM (EST).
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on (571)272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Sorey/  
Examiner, Art Unit 3626  
30 June 2008

/C Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626